UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT

APPLICATION FOR LEAVE TO FILE A SECOND OR
SUCCESSIVE MOTION TO VACATE, SET ASIDE
OR CORRECT SENTENCE
28 U.S.C. § 2255
BY A PRISONER IN FEDERAL CUSTODY

Name _____   Prisoner Number _____

Institution _____

Street Address _____

City _____   State _____   Zip Code _____

INSTRUCTIONS--READ CAREFULLY

(1)   This application must be legibly handwritten or typewritten and signed by the applicant under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury.

(2)   All questions must be answered concisely in the proper space on the form.

(3)   The Judicial Conference of the United States has adopted the 8½ x 11 inch paper size for use throughout the federal judiciary and directed the elimination of the use of legal size paper. All pleadings must be on 8½ x 11 inch paper, otherwise we cannot accept them.

(4)   All applicants seeking leave to file a second or successive petition are required to use this form, except in capital cases. In capital cases only, the use of this form is optional.

(5)   Additional pages are not permitted except with respect to additional grounds for relief and facts which you rely upon to support those grounds. DO NOT SUBMIT SEPARATE PETITIONS, MOTIONS, BRIEFS, ARGUMENTS, ETC., EXCEPT IN CAPITAL CASES.

(6)   In accordance with the "Antiterrorism and Effective Death Penalty Act of 1996," as codified at 28 U.S.C. § 2255, effective April 24, 1996, before leave to file a second or successive motion can be granted by the United States Court of Appeals, <u>it is the applicant's burden</u> to make a <u>prima</u> <u>facie</u> showing that he satisfies either of the two conditions stated below.

> A second or successive motion must be certified as provided in [28 U.S.C.] section 2255 by a panel of the appropriate court of appeals to contain—
>
> > (1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or
> >
> > (2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

(7)   When this application is fully completed, the original and three copies must be mailed to:

Clerk of Court
United States Court of Appeals for the Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

APPLICATION

1.　(a)　State and division of the United States District Court which entered the judgment of conviction under attack _____

　　　(b)　Case number _____

2.　Date of judgment of conviction _____

3.　Length of sentence _____ Sentencing Judge _____

4.　Nature of offense or offenses for which you were convicted:_____
_____
_____
_____

5.　Related to this conviction and sentence, have you ever filed a motion to vacate in any federal court?
　　　　　Yes ( )　No ( )　If "yes", how many times? _____ (if more than one, complete 6 and 7 below as necessary)
　　　(a) Name of court _____
　　　(b) Case number _____
　　　(c) Nature of proceeding _____
_____
_____

　　　(d) Grounds raised (list all grounds; use extra pages if necessary)_____
_____
_____
_____
_____
_____
_____
_____

　　　(e) Did you receive an evidentiary hearing on your motion?　Yes ( )　No ( )
　　　(f) Result _____
_____
　　　(g) Date of result _____

6.　As to any second federal motion, give the same information:
　　　(a) Name of court _____
　　　(b) Case number _____
　　　(c) Nature of proceeding _____
_____
_____

(d) Grounds raised (list <u>all</u> grounds; use extra pages if necessary)_____
_____
_____
_____
_____
_____

(e) Did you receive an evidentiary hearing on your motion?   Yes ( )   No ( )
(f) Result _____
_____
(g) Date of result _____

7.   As to any third federal motion, give the same information:
(a) Name of court _____
(b) Case number _____
(c) Nature of proceeding _____
_____
_____
_____

(d) Grounds raised (list <u>all</u> grounds; use extra pages if necessary)_____
_____
_____
_____
_____

(e) Did you receive an evidentiary hearing on your motion?   Yes ( )   No ( )
(f) Result _____
_____
(g) Date of result _____

8.   Did you appeal the result of any action taken on your federal motion? (Use extra pages to
     reflect additional petitions if necessary)
          (1) First motion   No ( )   Yes ( ) Appeal No. _____
          (2) Second motion   No ( )   Yes ( ) Appeal No. _____
          (3) Third motion   No ( )   Yes ( ) Appeal No. _____

9.   If you did <u>not</u> appeal from the adverse action on any motion, explain briefly why you did
     not: _____
_____
_____
_____
_____

10.   State concisely every ground on which you now claim that you are being held unlawfully. Summarize briefly the facts supporting each ground.

   A.   Ground one: _____
        _____
        Supporting FACTS (tell your story briefly without citing cases or law):
        _____
        _____
        _____
        _____
        _____
        _____

        Was this claim raised in a prior motion?   Yes ( ) No ( )

        Does this claim rely on a "new rule of law?"   Yes ( )   No ( )
        If "yes," state the new rule of law (give case name and citation):
        _____
        _____

        Does this claim rely on "newly discovered evidence?"   Yes ( )   No ( )
        If "yes," briefly state the newly discovered evidence, and why it was not
        previously available to you _____
        _____
        _____
        _____
        _____
        _____
        _____
        _____

   B.   Ground two: _____
        _____
        Supporting FACTS (tell your story briefly without citing cases or law):
        _____
        _____
        _____
        _____
        _____
        _____

        Was this claim raised in a prior motion?   Yes ( ) No ( )

Does this claim rely on a "new rule of law?"   Yes ( )   No ( )
If "yes," state the new rule of law (give case name and citation):

_____
_____

Does this claim rely on "newly discovered evidence?"   Yes ( )   No ( )
If "yes," briefly state the newly discovered evidence, and why it was not
previously available to you _____
_____
_____
_____
_____
_____
_____
_____
_____

[Additional grounds may be asserted on additional pages if necessary]

11.   Do you have any motion or appeal now pending in any court as to the judgment now under
       attack?   Yes ( )   No ( )
       If "yes," name of court _____Case number_____

       Wherefore, applicant prays that the United States Court of Appeals for the Eleventh Circuit
grant an Order Authorizing the District Court to Consider Applicant's Second or Successive
Motion to Vacate under 28 U.S.C. § 2255.

                                        _____
                                               Applicant's Signature

I declare under Penalty of Perjury that my answers to all the questions in this Application are true
and correct.

Executed on _____
                   [date]

                                        _____
                                               Applicant's Signature

PROOF OF SERVICE

Applicant must send a copy of this application and all attachments to the United States Attorney's office in the district in which you were convicted.

I certify that on _____, I mailed a copy of this Application[*] and
                              [date]
all attachments to _____

at the following address:
_____
_____

                                        _____
                                                  Applicant's Signature

---

[*] Pursuant to Fed.R.App.P. 25(a), "Papers filed by an inmate confined in an institution are timely filed if deposited in the institution's internal mail system on or before the last day of filing. Timely filing of papers by an inmate confined in an institution may be shown by a notarized statement or declaration (in compliance with 28 U.S.C. § 1746) setting forth the date of deposit and stating that first-class postage has been prepaid."